HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.NO. 346 OF 2007

DATED: 12.2.2007

Between:

Buravalli Appa Rao

… Petitioner

and

The Commissioner, Parvathipuram
Municipality

… Respondent

HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.No.346 of 2007

ORAL ORDER:

The petitioner is a vegetable vendor. He is aggrieved that Parvathipuram municipality is about to close the market and for that purpose is proceeding to evict the petitioner without notice and during the subsistence of his licence.

The grievance of the petitioner is that though he submitted a representation dated 21.6.2003 for renewal of lease and provision of an alternative site till a new complex is constructed, no orders have been passed as yet and the respondent is out to dispossess the petitioner.

No counter has been filed in this writ petition. However, this court dismissed a similar writ petition i.e. W.P.No.26416 of 2006 filed by the Vegetable Merchants Association, today. The respondents filed a counter affidavit therein. The counter, to the extent relevant and material to the issues in that writ petition, asserts that the Nehru Municipal market is more than 60 years old; from the 58 shops in the market which are in an advance stage of dilapidation and likely to collapse at any time; that in view of the eminently dangerous nature of the structures, it has been decided and resolved to shift the market location. The counter affidavit states that all the pre-existing leases

ended by 31.3.2006 and the municipality has not conducted auction of the lease of the shops as a new shopping complex is to be constructed under the Improvement and Development of Small and Medium Towns (IDSMT) Scheme.

The counter affidavit further asserts that an alternative site has been shown to all the leaseholders which is 100 meters away from the present market and the municipal council has passed a resolution on 28.2.2006 to provide alternative sites to the existing leaseholders. It is also stated that auction was also conducted on 16.3.2006, proposing vegetable market at the alternative site and that in the totality of circumstances, no relief could be granted.

On behalf of the petitioner, it is neither pleaded, asserted or shown that he has any legal entitlement to perpetual continuance in a premises in respect of which he had an annual lease which had also expired. The existence of a legal right is the only legitimate foundation for a Mandamus. No such legal right or a legitimate expectation is shown and therefore no justification exists for grant of a Mandamus.

The writ petition is bereft of merits and is accordingly dismissed. No costs.

GODA RAGHURAM, J

Date: 12.2.2007
cvm